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Attorneys for WAYMO LLC

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA, SAN FRANCISCO DIVISION

WAYMO LLC,

Plaintiff,

vs.

UBER TECHNOLOGIES, INC.;  
OTTOMOTTO LLC; OTTO TRUCKING  
LLC,

Defendants.

CASE NO. 3:17-cv-00939-WHA

**DECLARATION OF FELIPE  
CORREDOR IN SUPPORT OF  
DEFENDANTS UBER TECHNOLOGIES,  
INC. AND OTTOMOTTO LLC'S  
ADMINISTRATIVE MOTION TO FILE  
UNDER SEAL THEIR RESPONSE TO  
WAYMO'S PRECIS IN SUPPORT OF ITS  
REQUEST TO FILE A MOTION FOR  
RELIEF BASED ON DEFENDANTS'  
LITIGATION MISCONDUCT**

1 I, Felipe Corredor, declare as follows:

2 1. I am an attorney licensed to practice in the State of California and am admitted to  
3 practice before this Court. I am an associate at the law firm Quinn Emanuel Urquhart & Sullivan,  
4 LLP, counsel for the Plaintiff Waymo LLC ("Waymo"). I have personal knowledge of the matters set  
5 forth in this Declaration, and if called as a witness I would testify competently to those matters.

6 2. I make this declaration in support of Defendants' Uber Technologies, Inc. and  
7 Ottomotto LLC's Administrative Motion to File Under Seal Their Response to Waymo's Precis in  
8 Support of Its Request to File a Motion for Relief Based on Defendants' Litigation Misconduct (the  
9 "Administrative Motion"). The Administrative Motion seeks an order sealing highlighted portions of  
10 Defendants' Response to Waymo's Precis in Support of Its Request to File a Motion for Relief Based  
11 on Defendants' Litigation Misconduct ("Uber's Response") and of Exhibits J and M to the Tapernoux  
12 Declaration, as well as the entirety of Exhibits F-H thereto.

13 3. The portions of Uber's Response and Exhibits F, G, and H, as identified below contain  
14 or refer to confidential business information and/or attorney advice, which Waymo seeks to seal.

15 4. Uber's Response (portions highlighted in green), Exhibit F (portions highlighted in  
16 green in version filed herewith), Exhibit G (entire document), and Exhibit H (portions highlighted in  
17 green in version filed herewith) contain, reference, and/or describe highly confidential and sensitive  
18 business information. The information Waymo seeks to seal regards confidential policies regarding  
19 off-the-record communications. I understand that this confidential business information is maintained  
20 by Waymo as secret. The public disclosure of this information would give Waymo's competitors  
21 access to information about Waymo's business practices. If such information were made public, I  
22 understand that Waymo's competitive standing would be significantly harmed.

23 5. Uber's Response (portions highlighted in green) and Exhibit G (entire document)  
24 additionally contain, reference, and/or describe Waymo's confidential attorney advice. The  
25 information Waymo seeks to seal regards confidential attorney advice regarding company policy on  
26 off-the-record communications. I understand that this confidential information is maintained by  
27 Waymo as secret and that it is subject to Waymo's attorney-client privilege and work product  
28 protection, which have not been waived, pursuant to the Court's Order Pursuant to Rule 502, Fed. R.

1 Ev. (Dkt. 2363). The public disclosure of this information would be contrary to the Court's Order. If  
2 such information were made public, I understand that Waymo's competitive standing would be  
3 significantly harmed by exposure of its confidential legal strategy and advice.

4 6. Waymo's request to seal is narrowly tailored to those portions of Uber's Response and  
5 Exhibits F, G, and H that merit sealing.

6  
7 I declare under penalty of perjury under the laws of the State of California and the United  
8 States of America that the foregoing is true and correct, and that this declaration was executed in San  
9 Francisco, California, on January 18, 2018.

10 By /s/ Felipe Corredor

11 Felipe Corredor

12 Attorneys for WAYMO LLC

13  
14 **ATTESTATION**

15 In accordance with Civil Local Rule 5-1(i)(3), I attest that concurrence in the filing of this  
16 document has been obtained from Felipe Corredor.

17  
18 By: /s/ Charles K. Verhoeven

19 Charles K. Verhoeven

**EXHIBIT F**

**UNREDACTED VERSION**

**OF DOCUMENT**

**SOUGHT TO BE SEALED**

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

---oOo---

WAYMO LLC,  
Plaintiff,

vs.

No. 3:17-cv-00939-WHA

UBER TECHNOLOGIES, INC.;  
OTTOMOTTO LLC; OTTO TRUCKING,  
INC.,  
Defendants.

\_\_\_\_\_ /

HIGHLY CONFIDENTIAL ATTORNEYS' EYES ONLY  
30(b)(6) VIDEOTAPED DEPOSITION OF SCOTT JOHNSTON  
SAN FRANCISCO, CALIFORNIA  
THURSDAY, DECEMBER 14, 2017

BY: ANDREA M. IGNACIO, CSR, RPR, CRR, CCRR, CLR ~  
CSR LICENSE NO. 9830  
JOB NO. 2773322

1 communicates via chat, yes. 10:05

2 MR. GONZALEZ: I'm not too good at math. I'm 10:05

3 doing it in my head. 10:05

4 [REDACTED] [REDACTED]

[REDACTED]

[REDACTED] 10:05

7 A It -- it's dependent on what the custom- -- 10:05

8 sorry -- what the employee chooses for settings. 10:05

9 [REDACTED] [REDACTED]

[REDACTED] [REDACTED]

[REDACTED] [REDACTED]

[REDACTED] [REDACTED]

[REDACTED] [REDACTED]

[REDACTED] [REDACTED]

[REDACTED] [REDACTED]

[REDACTED] [REDACTED]

[REDACTED] [REDACTED]

[REDACTED] [REDACTED]

[REDACTED] [REDACTED]

[REDACTED] [REDACTED]

[REDACTED] [REDACTED]

[REDACTED] [REDACTED]

[REDACTED] [REDACTED]

[REDACTED] [REDACTED]

[REDACTED] [REDACTED]

[REDACTED] 10:06

CERTIFICATE OF REPORTER

I, ANDREA M. IGNACIO, hereby certify that the witness in the foregoing deposition was by me duly sworn to tell the truth, the whole truth, and nothing but the truth in the within-entitled cause;

That said deposition was taken in shorthand by me, a disinterested person, at the time and place therein stated, and that the testimony of the said witness was thereafter reduced to typewriting, by computer, under my direction and supervision;

That before completion of the deposition, review of the transcript [ ] was [x] was not requested. If requested, any changes made by the deponent (and provided to the reporter) during the period allowed are appended hereto.

I further certify that I am not of counsel or attorney for either or any of the parties to the said deposition, nor in any way interested in the event of this cause, and that I am not related to any of the parties thereto.

Dated: December 15, 2017



ANDREA M. IGNACIO,  
RPR, CRR, CCRR, CLR, CSR No. 9830

**EXHIBIT H**

**UNREDACTED VERSION**

**OF DOCUMENT**

**SOUGHT TO BE SEALED**



**IN UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION**

**FUNCTION MEDIA, L.L.C.,**

**v.**

**GOOGLE, INC. AND YAHOO!, INC.**

**Civil Case No. 2:07-cv-279 (CE)**

**FILED UNDER SEAL**

**JURY TRIAL DEMANDED**

**DECLARATION OF THERESA H. BEAUMONT**

I, Theresa H. Beaumont, hereby declare,

1. I have personal knowledge of the facts stated herein. If called and sworn as a witness, I could and would testify competently thereto.

2. I am submitting this declaration in support of Google's Opposition to Function Media's Emergency Motion for Adverse Inference Instruction Regarding Google's Destruction of Evidence.

3. I am Discovery Counsel at Google Inc. ("Google"), a role I have occupied since May 2008. I am responsible for facilitating information-gathering and document collections of electronically-stored information in response to discovery obligations.

4. Google provides an internal corporate "chat" network for employees that allows them to communicate with colleagues via instant messages. These instant messages allow employees to determine whether colleagues are available and engage in informal communications not unlike the texting that takes place on a cell phone.

5. An instant message is a real-time dialogue between two or more people. It most closely resembles a telephone or face-to-face conversation. The conversation usually appears in a small window on a user's computer screen. The conversation is ephemeral and disappears from view when a user closes the instant messaging window. Employees often use instant messages for conversations that are purely procedural – e.g., determining whether a co-worker is free for a call – or completely irrelevant to their work – e.g., making plans to meet for lunch.

■ [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

10. [REDACTED]

[REDACTED]

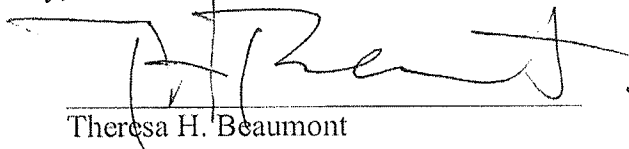
[REDACTED]

11. In this case, Google has produced more than 5 million pages of documents.

12. I understand that Function Media takes issue with the lack of duplicates of a particular email in Google's document production. It is standard, widespread, and reasonable industry practice to "de-dupe" electronically-stored information, to the extent possible, to minimize the time, effort and expense of pre-production document review, and to avoid dumping unnecessarily voluminous quantities of documents on the opposing side in litigation. However, the fact that a particular email was produced from the files of Ms. Wojcicki does not mean that the other copies of that email in other employees' files, including Mr. Brin's files, were not preserved. As an example, at Google, there are many email aliases, such as [REDACTED] which are akin to a distribution list of numerous Google employees. During the document collection and review process, Google makes its best efforts to "de-dupe" such identical emails. If Google did not do that, the volume of Google's document productions would increase exponentially, but would be populated with numerous identical duplicate emails.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct to the best of my knowledge.

Executed this 15 day of January, 2010 at New York, New York.

  
Theresa H. Beaumont

# **EXHIBIT 1**

Leslie Altherr - 7/30/2009  
ATTORNEYS' EYES ONLY

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION

FUNCTION MEDIA LLC,

Plaintiff,

vs.

No. 2007-CV-279 (CE)

GOOGLE, INC. and YAHOO!, INC.,

Defendants.

\_\_\_\_\_/

\*\*\* ATTORNEYS' EYES ONLY \*\*\*

VIDEOTAPED DEPOSITION OF LESLIE ALTHERR

30(b)(6) DEPOSITION OF GOOGLE, INC.

July 30, 2009

Reported by:  
Natalie Y. Botelho  
CSR No. 9897

Leslie Altherr - 7/30/2009  
ATTORNEYS' EYES ONLY

Page 40

1 Does Google have any sort of explanation as to why  
2 there's been no instant messaging production?

3 A. A user --

4 MR. WOLFF: Objection.

5 THE WITNESS: A user can change their  
6 settings to be off the record, which means that the  
7 text of the messages are not stored anywhere.  
8 They're not logged in the e-mail. If you're on the  
9 record, the text of the IM is stored with the mail.  
10 So when we pull the mail from the mail server, you  
11 would get those messages.

12 MR. GRINSTEIN: Q. Do Google employees,  
13 in your experience, in gathering documents for  
14 lawsuits, typically do their instant messaging off  
15 the record?

16 A. I can't speak to all of Google and what  
17 they do with their instant messaging, and there's  
18 no -- it's up to the user. Instant messaging is  
19 really supposed to be used to say, "Hey, are you  
20 there? Did you see my e-mail?" It's not -- it's  
21 for short messages. I don't know if you text on  
22 your phone, but it's the same idea.

23 Q. What happens to instant messages that are  
24 sent off the record after they're sent? I should  
25 be -- that's a bad question. Let me ask again.

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WAYMO-UBER-00145120

Leslie Altherr - 7/30/2009

ATTORNEYS' EYES ONLY

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1 How, if at all, are instant messages that are sent  
2 by Google employees off the record retained?

3 MR. WOLFF: Objection.

4 THE WITNESS: If your setting is off the  
5 record, they're not stored in your e-mail.  
6 They're -- there's no log of them.

7 MR. GRINSTEIN: Q. So once the message is  
8 sent, there is no permanent record of the message  
9 kept; is that your testimony?

10 A. If it's off -- if it's off the record.

11 Q. If it's off the record?

12 A. Correct.

13 Q. All right. If you can turn with me to the  
14 page that has Bates Number 633, please. This  
15 document's entitled "EMG Reports." Do you see that?

16 A. Yes.

17 Q. Do you know what the abbreviation "EMG"  
18 stands for?

19 A. "Executive Management Group."

20 Q. And you see the first bullet point, it  
21 says, "What are EMG Reports? These weekly reports  
22 provided the Executive Management Group status  
23 updates for the various groups and departments." Do  
24 you see that?

25 A. Yes.

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WAYMO-UBER-00145121



# **EXHIBIT 2**

Sergey Brin - 1/14/2010  
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Page 1

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS

--oOo--

FUNCTION MEDIA, L.L.C.,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	Case No. 2:07CV279
	)	
GOOGLE, INC.	)	
	)	
Defendant.	)	
_____	)	

DEPOSITION OF  
SERGEY BRIN

\_\_\_\_\_  
Thursday, January 14, 2010

\*\*HIGHEST LEVEL OF CONFIDENTIALITY  
UNDER PROTECTIVE ORDER\*\*

REPORTED BY: COREY W. ANDERSON, CSR 4096 (425290)

Sergey Brin - 1/14/2010

Highest Level of Confidentiality Under Protective Order

Page 89

1 didn't receive a lot of e-mails from your file.  
2 This e-mail is actually from Ms. Wojcicki's files.  
3 My question to you would be why we didn't receive  
4 this e-mail from your files.

5 A. I would have to ask the folks who produced  
6 this or stuff. I mean, I imagine that since you  
7 already had it -- well, actually, wait a second.

8 Well, this e-mail was only sent to Susan  
9 Wojcicki. The one that it refers to inside was sent  
10 to EMG.

11 Q. Right.

12 A. Yeah.

13 Q. Okay. You do not have a policy of  
14 deleting e-mails.

15 Is that right?

16 A. No. I can try to search for it for you.  
17 But you already have it.

18 Q. Do you -- well, I'm not particularly  
19 worried about this e-mail.

20 A. Hmm.

21 Q. I'm worried about the other e-mails that I  
22 might not have that were sent to Susan Wojcicki  
23 is -- that were not sent to Susan Wojcicki, excuse  
24 me.

25 Do you use instant messaging?

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**WAYMO-UBER-00145124**

Sergey Brin - 1/14/2010

Highest Level of Confidentiality Under Protective Order

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1           A.     We have a feature in Gmail built in called  
2 gmail chat or Google talk -- or Google Talk, sorry.  
3 Can't remember how we branded it exactly.

4           But anyway, we have a chat feature built  
5 into gmail.

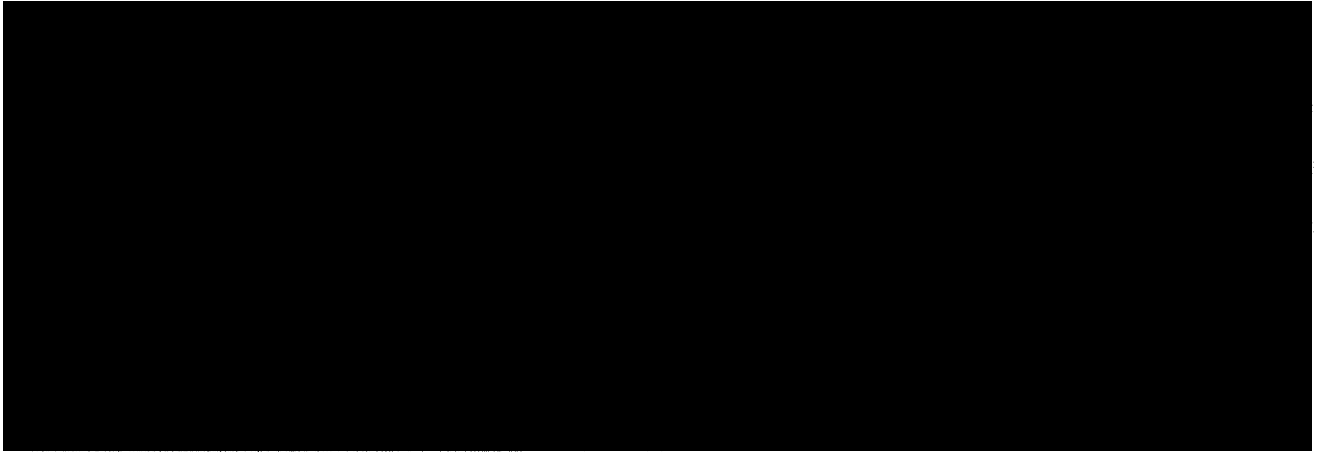
6           Q.     Do you use that?

7           A.     Uh-huh.

8           Q.     The e-mails are stored within Google and  
9 gmail, or are they all off the record?

10          A.     Sorry, are you talking about chats?

11          Q.     Yes.



19          Q.     You never exchange anything meaningful --  
20 let me back up.

21                 You have never exchanged anything  
22 meaningful by means of instant message conversation?

23          A.     That's a universal, so probably going a  
24 little bit overboard. But chat is generally  
25 reserved for, you know, like can you take a look at

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**WAYMO-UBER-00145125**

Sergey Brin - 1/14/2016

Highest Level of Confidentiality Under Protective Order

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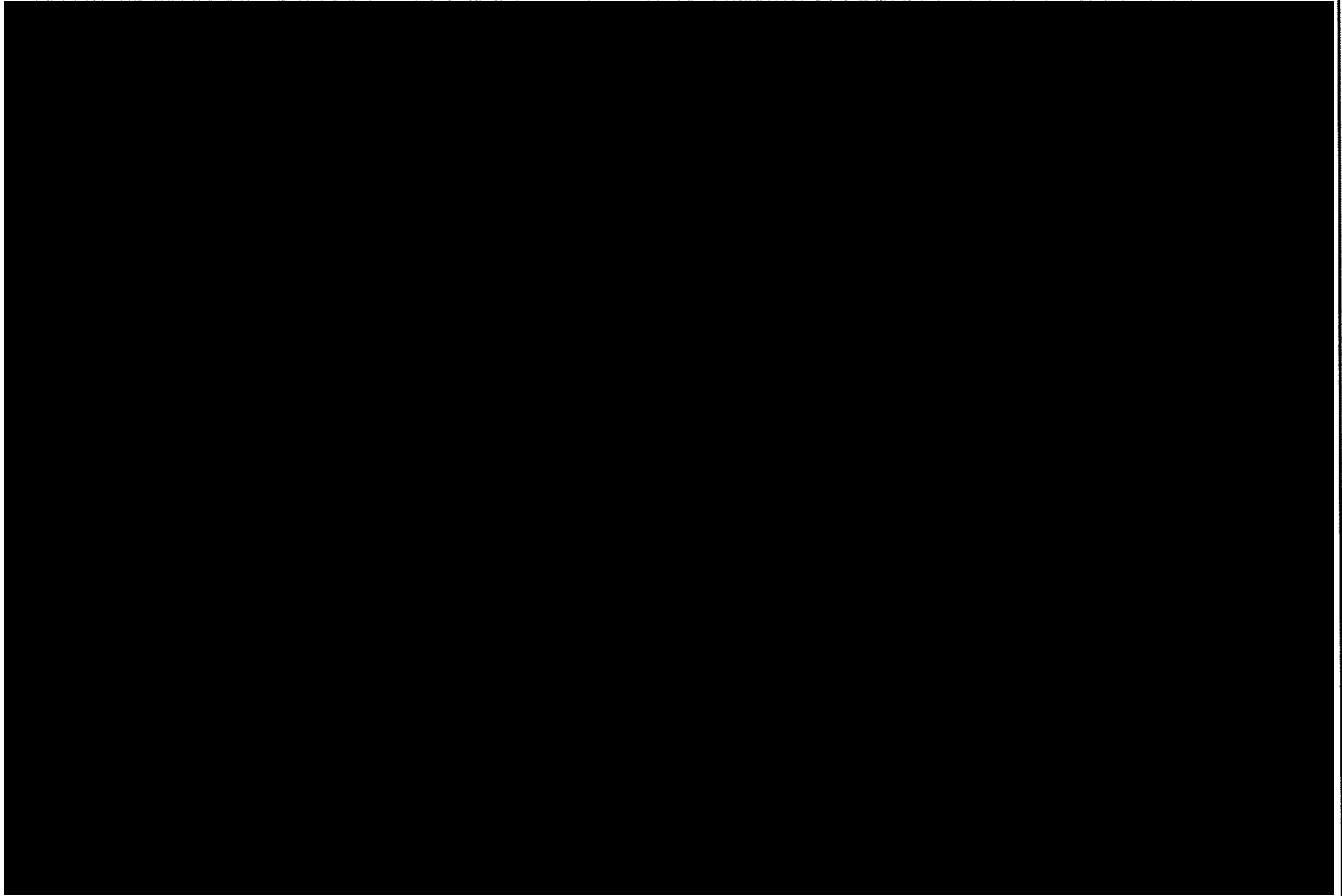
1 this, where I point to something, you know, point to  
2 an e-mail or point to a document or something, or --  
3 but that wouldn't typically be the case, I don't  
4 know.

5 Q. Sometimes you would have substantive  
6 conversations or take a look at this or relevant  
7 issues that would take place by instant message?

8 MR. DeFRANCO: Objection to form.

9 Go ahead.

10 THE WITNESS: I -- I don't know about -- I  
11 mean, I can't think of an instance of that. So...



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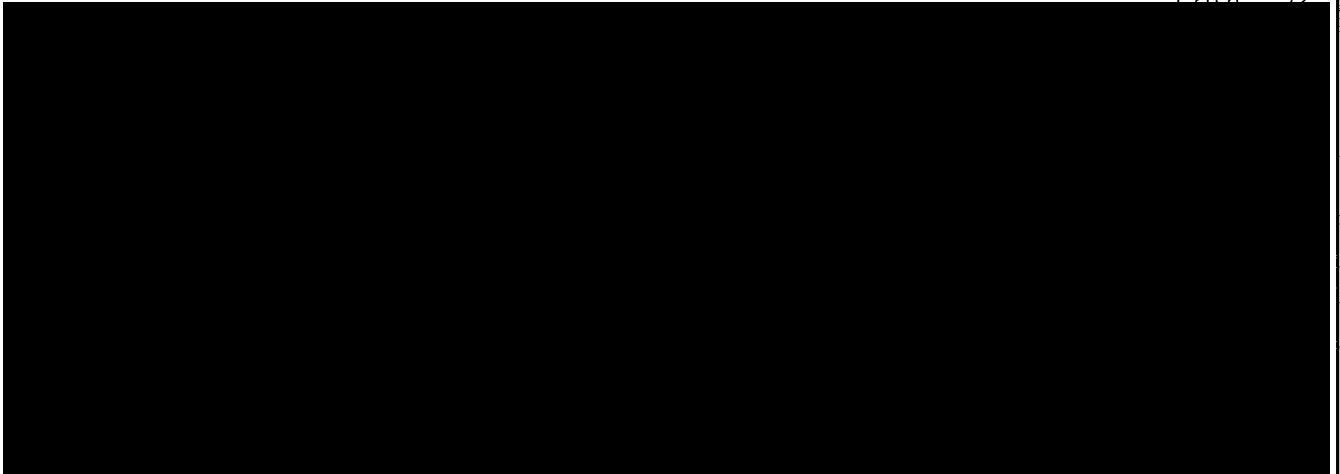
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**WAYMO-UBER-00145126**

Sergey Brin - 1/14/2010

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Page 92



1  
2  
3  
4  
5  
6  
7  
8 Q. Does Google have a way to search documents  
9 electronically over the entire network?

10 A. Over the entire network?

11 Q. Yeah.

12 A. Well, what kinds of documents?

13 Q. E-mails.

14 A. Oh, yeah, e-mails we can search, uh-huh.  
15 I mean, oh, sorry, we can search all the ones that  
16 are stored within gmail. If somebody is using  
17 different e-mails, then that would not have...

18 Q. And so you can do one, put in a search  
19 term and it will search the entire company's  
20 e-mails.

21 Is that right?

22 A. Oh, sorry.

23 Q. I just want to be sure we are on the same  
24 page here so there is no misunderstanding.

25 A. Okay, I see what you are saying. Oh. You

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WAYMO-UBER-00145127